

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

JESSIE LEE WASHINGTON, #901757 §
VS. § CIVIL ACTION NO. 6:14cv303
TAMMILYN MCWHIRTER, ET AL. §

ORDER OF DISMISSAL

Plaintiff Jessie Lee Washington, an inmate confined in the Texas prison system, proceeding *pro se* and seeking to proceed *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The cause of action was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation to dismiss the case pursuant to 28 U.S.C. § 1915(g) and sanctions imposed by the Fifth Circuit in *Washington v. Legg*, No. 95-40510, 1996 WL 101372 (5th Cir. Feb. 23, 1996). The Plaintiff has filed objections. Without explanation, he merely alleges that he is under imminent danger of serious injury.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the amended complaint and objections raised by Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of Plaintiff are without merit. It is specifically noted that Plaintiff's claim that Defendant Thomas left his cell door open on October 30, 2013 fails to show that he was under imminent danger of serious physical injury at the time that he filed the lawsuit on April 24, 2014.

Furthermore, Plaintiff failed to address or satisfy the remaining sanctions imposed by the Fifth Circuit in *Washington v. Legg*. More specifically, he neither sought nor obtained permission to file the present lawsuit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the civil rights complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

ORDERED that the motion to proceed *in forma pauperis* (Docket Entry #2) is **DENIED**. It is further

ORDERED that Plaintiff may resume the lawsuit if he (1) seeks and obtains permission to file the lawsuit, and (2) pays the entire filing fee of \$400 within thirty days after the entry of the final judgment. It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 30th day of May, 2014.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE